

Admin.

January 12, 2000

Memorandum 2000-16**2000 Strategic Plan**

The strategic plan is a relatively recent bureaucratic innovation in California government. The document is intended to help the state in its intermediate to long range planning, particularly for budgeting purposes. The strategic plan may be updated from time to time as circumstances change.

The Law Revision Commission's strategic plan was last revised in 1998. The draft attached to this memorandum is an updated version of the plan that reflects shifting topics and priorities on the Commission's calendar.

The plan provides an oversight of the Commission's programmatic and administrative objectives. The only major near-term action item indicated is the need for a budget augmentation to adequately cover operating expenses. (In recent years we have covered operating expenses in part out of amounts allocated for personnel, but this is no longer possible as staff advancement consumes available personnel funds.)

We do not intend to discuss the updated plan at the meeting unless someone has an issue or question about it.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

Admin.

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

Staff Draft

2000 Strategic Plan

February 2000

California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739
650-494-1335 FAX: 650-494-1827

EXECUTIVE SUMMARY

In this strategic plan the California Law Revision Commission states its overall goal to maintain the same high level of performance that has characterized it in the past.

To achieve this goal the plan establishes sequencing and completion dates for major legislative assignments, and determines that current levels of funding are generally adequate for this purpose. However, the plan indicates the need for a budget adjustment to cover a shortfall in operating expenses that in the past has been funded with amounts not needed for personnel costs.

This plan may be revised from time to time to reflect changes in the Commission's calendar of topics and changes in legislative priorities.

For questions about, and copies of, this plan, please contact Nathaniel Sterling, Executive Secretary, California Law Revision Commission 650-494-1335.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
TABLE OF CONTENTS	2
MISSION STATEMENT	3
DESCRIPTION	3
PRINCIPLES	3
INTERNAL/EXTERNAL ASSESSMENT SUMMARY	4
Planning Assumptions	4
Internal and External Issues	4
VISION	4
GOALS	5
OBJECTIVES	5
1999-00 Fiscal Year	5
2000-01 Fiscal Year	5
2001-02 Fiscal Year	6
2002-03 Fiscal Year	6
PERFORMANCE MEASURES	6
1997-98 Actual	7
1998-99 Actual	7
1999-00 Estimated (Target)	7
2000-01 Expected (Target)	8
2001-02 Expected (Budget Year Target)	8
2002-03 Expected (Target)	8
RESOURCE ASSUMPTIONS	8
APPENDIX ITEMS	10
Methodology Statement	10

MISSION STATEMENT

The California Law Revision Commission was created in 1953 as the permanent successor to the Code Commission and given responsibility for a continuing substantive review of California statutory and decisional law. The Commission studies the law to discover defects and anachronisms and recommends legislation to make needed reforms.

DESCRIPTION

The duties and responsibilities of the California Law Revision Commission include:

(1) Examining the common law and statutes of the state and judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms.

(2) Receiving and considering proposed changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, bar associations, and other learned bodies.

(3) Receiving and considering suggestions from judges, public officials, lawyers, and the public as to defects and anachronisms in the law.

(4) Recommending changes in the law necessary to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state into harmony with modern conditions.

(5) Recommending the express repeal of all statutes repealed by implication, or held unconstitutional by the United States Supreme Court or the California Supreme Court.

The Commission submits its reports and recommendations for revision of the laws to the Governor and the Legislature.

PRINCIPLES

This agency's core principles include:

(1) Openness. The agency will conduct its business openly and encourage public participation.

(2) Fairness. The agency will make recommendations for reform of the law that are fair to the parties.

(3) Neutrality. The agency will not represent the interests of any group.

(4) Integrity. The agency will be forthright in its recommendations and in its dealings with the legislative process.

(5) Quality. The agency will provide the highest quality, most reliable legal work.

(6) Efficiency. The agency will maximize the return on public resources expended for its mission.

INTERNAL/EXTERNAL ASSESSMENT SUMMARY

Planning Assumptions

As California grows and evolves, the state's laws will continue to become more voluminous and complex, and will continually become outdated and obsolete. The need for law reform is permanent.

During its 47-year history, the Law Revision Commission has established a reputation for high-quality, reliable work, and high productivity; its publications have become a fundamental legislative research tool. The Governor, Legislature, courts, and legal community expect these standards to be maintained.

Internal and External Issues

The major external issue facing the Law Revision Commission is the advent of legislative term limits. The Commission depends for successful completion of its mission on the Governor's and Legislature's favorable reception of the Commission's recommendations. Their acceptance is based in part on the Commission's reputation for neutrality, integrity, and careful work. A high rate of legislative turnover may make this bond of trust more difficult to establish. However, it may also force greater legislative reliance on aids such as the Law Revision Commission. The full impact of term limits is not yet clear.

Another important external issue is the involvement in Commission projects of persons and organizations affected by the projects. The success of Commission recommendations is substantially influenced by the extent to which concerns of affected parties are satisfactorily addressed. It is not always easy to obtain the involvement of affected parties, but it is necessary.

Active participation by Commission members is an internal issue important to the quality of the Commission's work. Because Commission members serve without compensation (other than travel expenses and a per diem), other priorities may intervene. This is a perennial problem, more acute at some times than at others.

A final internal issue relates to office location and employee compensation. The Commission's main office is located in Palo Alto as a result of historical connections with Stanford University Law School. These connections are no longer as close as they once were, and housing costs in the Bay Area have hindered the Commission's recruitment and retention of the best employees. To maintain a high level of performance, the Commission needs to be able to recruit outstanding personnel who can afford to live on state government salary and to assure them of advancement opportunities.

VISION

This agency's image of the desired future is to continue to be a respected, trusted, and relied-upon source of recommendations to the Governor and Legislature for law reform. It is to be an agency of active and dedicated members, supported by a high-quality staff, with the active engagement and participation of the public in its projects.

GOALS

By any measure, the Law Revision Commission has been a highly successful agency. Its output is high, its product is respected, its recommendations are overwhelmingly enacted into law. The Commission's overall goal is to maintain the same high level of performance that has characterized it in the past.

The Law Revision Commission has only one program — law reform. Any other goals are subordinate to that end.

Administratively, the Law Revision Commission's goal is to relocate its office in an area of affordable housing, and to provide adequately for staff advancement.

OBJECTIVES

For maximum efficiency in achieving the goal of continuing high quality law reform, the Commission must process a number of large and small projects simultaneously. The Commission must take preliminary steps to activate new projects in a timely manner as ongoing projects are completed. Simultaneous work in a number of fields should also help improve interaction with the Legislature and interested parties, as well as Commissioner involvement. To this end, the Commission's objectives for the current and next three fiscal years include, in addition to work on a number of minor projects, the activities on major studies set out below. (Note: These are programmatic objectives. For administrative objectives, please refer to the portion of this plan concerning resource assumptions.)

1999-00 Fiscal Year

- Complete work on Administrative Rulemaking
- Complete work on Settlement Negotiation Confidentiality
- Complete work on Family Consent in Health Care Decisionmaking
- Partial report on Issues in Judicial Administration
- Partial report on Eminent Domain Issues
- Begin work on Mechanics Lien Law
- Begin work on Chapter 9 Bankruptcy Issues
- Begin work on General Assignments for Benefit of Creditors
- Obtain consultant for Evidence Code Analysis

Obtain consultant for Criminal Sentencing Project
Obtain consultant for Common Interest Development Law

2000-01 Fiscal Year

Complete work on Chapter 9 Bankruptcy Issues
Partial report on Mechanics Lien Law
Partial report on Issues in Judicial Administration
Partial report on Eminent Domain Issues
Begin work on Criminal Sentencing Project
Begin work on Uniform Unincorporated Nonprofit Association Act
Begin work on Probate Code Rules of Construction
Begin work on Discovery Improvements
Begin work on Criminal Procedures Under Unification
Begin work on Public Records Act
Obtain consultant for Trust Law Analysis

2001-02 Fiscal Year

Complete work on Mechanics Lien Law
Complete work on Issues in Judicial Administration
Complete work on Eminent Domain Issues
Complete work on Uniform Unincorporated Nonprofit Association Act
Complete work on General Assignments for Benefit of Creditors
Partial report on Criminal Sentencing Project
Partial report on Probate Code Rules of Construction
Partial report on Discovery Improvements
Partial report on Criminal Procedures Under Unification
Partial report on Public Records Act
Begin work on Trust Law Analysis
Begin work on Evidence Code Analysis

2002-03 Fiscal Year

Complete work on Criminal Sentencing Project
Complete work on Probate Code Rules of Construction
Complete work on Discovery Improvements
Complete work on Criminal Procedures Under Unification
Complete work on Public Records Act
Complete work on Trust Law Analysis
Partial report on Evidence Code Analysis

Important Note: This schedule may be revised from time to time as the Legislature and Commission redetermine assignments and priorities.

PERFORMANCE MEASURES

There are a number of quantitative benchmarks that might be used to gauge the Law Revision Commission's performance, including volume of materials considered by the Commission, number of recommendations completed, printed pages of reports produced, number of bills introduced, number of statute sections enacted, etc. However, none of these measures has proved to be adequate or especially useful. A significant improvement in the law that requires substantial Commission resources may be expressed in a brief report or statute, whereas a modest cleanup of codes requiring relatively few Commission resources may entail an extensive report on hundreds of statute sections. Enactment of legislation based on the Commission's work is also not a useful measure, since the legislation may be enacted some years after completion of the work, and the legislative process ordinarily involves amendments, partial enactments, etc. There is no direct correlation between quantity and quality in the work of the Law Revision Commission.

More useful quantitative measures would look to the Commission's progress on key elements of each study in its law reform program. For this purpose, production of a consultant contract (or staff study) marks the initiation of work on a project, issuance of staff memoranda and intermediate drafts marks progress on the project, promulgation of a tentative recommendation marks completion of substantial work on the project, and publication of a report and its submittal to the Governor and Legislature mark conclusion of the project.

Taking work actually concluded on both major and minor studies, and expected conclusion of major studies only (subject to changing legislative priorities), performance data for this submittal are:

1998-99 Actual

- Trial Court Unification: Revision of Codes (7/98)
- Effect of Dissolution of Marriage on Nonprobate Transfers (9/98)
- Administrative Rulemaking: Consent Regulations and Other Noncontroversial Regulations (9/98)
- Administrative Rulemaking: Advisory Interpretations (9/98)
- Health Care Decisions for Adults Without Decisionmaking Capacity (12/98)
- Uniform Principal and Income Act (2/99)

1999-00 Estimated (Target)

- Eminent Domain Valuation Evidence
- Goodwill Issues in Eminent Domain
- Administrative Rulemaking
- Alternate Distributee
- Air Resources Technical Revisions
- Enforcement of Judgments Under the Family Code

Settlement Negotiations
Jurisdictional Classification of Good Faith Improver Claim
Authority to Appoint a Receiver
Improving Access to Rulemaking
Revocable Trust Accounting

2000-01 Expected (Target)

Expired Pilot Projects
Estate Planning During Dissolution of Marriage
Technical Revisions in Debtor-Creditor Law
Litigation Expenses in Eminent Domain Cases
Award of Costs and Contractual Attorney's Fees to Prevailing Party
Statute of Limitations for Legal Malpractice
Chapter 9 Bankruptcy Issues
Issues in Judicial Administration (Part 1)

2001-02 Expected (Budget Year Target)

Mechanics Lien Law
Issues in Judicial Administration (Part 2)
Eminent Domain Offset of Benefits against Damages
Uniform Unincorporated Nonprofit Association Act
General Assignments for Benefit of Creditors
Criminal Sentencing (Part 1)
Probate Code Rules of Construction (Part 1)
Discovery Improvements (Part 1)
Criminal Procedures Under Unification (Part 1)
Public Records Act (Part 1)

2002-03 Expected (Target)

Criminal Sentencing (Part 2)
Probate Code Rules of Construction (Part 2)
Discovery Improvements (Part 2)
Criminal Procedures Under Unification (Part 2)
Public Records Act (Part 2)
Trust Law

RESOURCE ASSUMPTIONS

For fiscal year **1999-00**, the Law Revision Commission has developed its goals, objectives, and performance targets based on its fiscal year 1999-00 appropriation and other expected funds.

For fiscal year **2000-01**, the Law Revision Commission expects that the Legislature will enact the Commission's budget as proposed in the Governor's

budget plan. The Commission plans to accomplish its goals, objectives, and performance targets within that budget.

For fiscal year **2001-02**, the Law Revision Commission will seek an adjustment to reflect its true operating expenses. During the preceding two years the Commission has funded its operating expense shortfall out of funds allocated for personnel expenses, but employee advancement will preclude this possibility in 2001-02.

For fiscal year **2002-03**, the Law Revision Commission expects to accomplish its goals, objectives, and performance targets within the expected 2002-03 base budget.

Otherwise, no new resources are being sought to support the Commission's strategic plan. This is subject to a few qualifications:

(1) The Commission currently receives extensive library materials on an exchange basis with various legal publishers. Due to consolidation within the legal publishing industry, the Commission may lose access to critical library materials. If this occurs, it may be necessary to increase the Commission's operating expenses for library materials.

(2) If the Legislature continues to increase the Commission's priority workload, it may be necessary to increase the Commission's legal staff by an additional position and increase the Commission's operating expenses by an indeterminate amount.

(3) There has been state administrative and library interest in the possibility of electronically archiving all California Law Revision Commission materials, including basic documents in state archives. Depending on technology development, a one-time appropriation for this purpose may be desirable.

(4) The Commission's photocopy machine is aging and should be replaced in either fiscal year 1999-00 or 2000-01. This will be a major outlay for the Commission, but the Commission will attempt to fund it through salary savings, if possible. (The Commission ordinarily has no salary savings due to low staff turnover, but this period is an exception due to the retirement of a staff counsel.) If it is not possible to make the acquisition out of current funds, it may be necessary to obtain a special appropriation for this purpose.

(5) One of the Commission's goals is to relocate its office to an area of affordable housing. The Commission is doing this incrementally, establishing and expanding its office in Sacramento while it contracts its office in Palo Alto. At an undetermined point in the future the Commission will need to relocate main office support functions to Sacramento. At that time it may be necessary to augment the Commission's budget for one-time costs associated with the move.

APPENDIX ITEMS

Methodology Statement

This strategic plan was compiled by the California Law Revision Commission's executive staff, based on (1) the Legislature's concurrent resolution determining the Commission's calendar of topics, (2) the Commission's annual review and determination of priorities, and (3) discussions with budget personnel. The strategic plan also reflects the result of input from Commission members, staff members, and the public concerning the Commission's last preceding strategic plan. The strategic plan is reviewed by the Commission at a public meeting.